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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,957	12/10/2003	Daniel R. Boas	12781.153302UTL	6787

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EXAMINER

BARNEY, SETH E

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/731,957	Applicant(s) BOAS, DANIEL R.	
	Examiner Seth Barney	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,775,591 to Fauci.

Fauci discloses a sprayer holster comprising a body configured for secure attachment to a sprayer, the body also being configured for securing a spray wand and peripheral items (13). See Figure 2.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,775,591 to Fauci in view of U.S. Patent No. 4,700,830 to O'Brien.

Fauci discloses a spraying device having a nozzle wand (22) fastened to a tank (11) by a clamp (24). Fauci further discloses a means of storing peripheral items (13).

Fauci uses the means to store the hose and is also capable of storing other items. See Figure 2. Fauci does not disclose a separate holster attached to the tank.

O'Brien discloses a nozzle holster having a main body (11, 12) with an upper portion and lower portion, means for securing the body to the tank (12,13), means for holding a nozzle spray wand disposed at the lower portion of the body (13F), and means for clipping (33) a spray wand to the upper portion of the body. Furthermore the body is shaped to conform to the body of the sprayer tank. See Figure 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spraying device of Fauci with the wand holster of O'Brien in order to more properly secure the nozzle wand to the tank.

5. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,775,591 to Fauci and U.S. Patent No. 4,700,830 to O'Brien as applied to claims 1 and 5 above, and further in view of U.S. Patent No. 5,072,868 to Dickie.

O'Brien does not disclose what material the nozzle holster is comprised of. Dickie discloses a brush holder made of adjustable plastic. See column 2 lines 54 to 66. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the nozzle holster of O'Brien with the plastic as taught by Dickie in order to adjustably attach the nozzle holster to the tank.


### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,527,196 to Ehrick et al. discloses a holstered

sprayer having means for storing peripheral items. U.S. Patent No. 4,761,850 to Romeo et al. discloses a vacuum having a holstered wand and means for storing peripheral items.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

  
David A. Scherbel  
Supervisory Patent Examiner  
Group 3700